



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Affordable Dwelling Unit Program
Mid-Rise Multiple Family Dwellings

PUBLIC HEARING DATES

Planning Commission January 23, 2003 at 8:15 p.m.

Board of Supervisors February 24, 2003 at 3:30 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
(703) 324-1314**

November 18, 2002

DP



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STAFF COMMENT

On July 1, 2002, the Board of Supervisors (Board) adopted changes to the Affordable Dwelling Unit (ADU) provisions of the Zoning Ordinance. At the time of the adoption of these changes, the Board requested the ADU Task Force (Task Force) to continue its review of the issue of providing ADUs in mid-rise and high-rise multiple family residential developments, which dwelling unit types are currently exempt from the ADU Program. This proposed Zoning Ordinance amendment addresses only mid-rise multiple family residential developments. The Task Force is continuing its discussion of the high-rise multiple family residential developments and a separate report will be forthcoming. In addition to Co-Chairpersons Supervisors Dana Kauffman and Catherine M. Hudgins, the Task Force membership includes builders, developers, attorneys, a representative of the Northern Virginia Building Industry Association (NVBIA), the Chamber of Commerce, Apartment and Office Building Association (AOBA), the United Christian Ministries, and AHOME, as well as representatives from the Department of Planning and Zoning, the Department of Public Works and Environmental Services, the Department of Housing and Community Development (HCD) and the County Attorney's Office. A list of the Task Force membership is set forth in Attachment 1 of this Staff Report.

Under the current provisions of the Zoning Ordinance, any multiple family dwelling unit or housing for the elderly structure with 4 stories or more and having an elevator is exempt from the requirements of the ADU Program. This exemption was included in the original adoption of the ADU Program in 1990 in response to the assertions of certain builders of multiple family residential developments that given the construction costs of buildings of 4 stories or more served by an elevator and given the proposed bonus densities, ADUs could not be provided without having a negative economic impact on the development. In response to a Board request prompted by the increased development of multiple family dwellings in the County and the need to provide for affordable units in these types of developments, the Task Force examined the economic costs of multiple family dwelling unit developments to determine if it was possible to establish an appropriate ADU requirement for these types of developments.

In order to assist in the analysis of the construction costs and economics of multiple family dwelling unit developments, staff from HCD contracted for the services of Bolan Smart Associates, a national real estate and economic consulting organization that provides independent advisory services to corporations, government, financial institutions, developers, planners, law firms, owners, and investors. In considering the establishment of an ADU requirement for the currently exempt multiple family dwelling unit types, the Task Force identified those factors which would affect the economics of an ADU requirement in such structures. For the purpose of this analysis, multiple family dwelling unit buildings have been classified by the Task Force to be generally of three types: low-rise, mid-rise and high-rise. Any building of 3 stories or less was considered to be a low-rise. Under the current provisions of the Zoning Ordinance, low-rise multiple family developments (3 stories or less) and all non-elevator multiple family developments are subject to the current ADU Program and, therefore, these types of buildings were not the focus of this analysis. Mid-rise buildings are generally considered to be those structures of 4 or 5 stories with an elevator. High-rise buildings are generally considered to be those structures of 6 stories or more with an elevator. Whereas the Task Force considered both mid-rise and high-rise developments, it was apparent that the nature

of high-rise residential development and the associated costs were significantly different from those of mid-rise residential construction. As stated above, the Task Force concluded that additional work was required for high-rise developments; therefore this amendment only addresses mid-rise developments. The Task Force is continuing to work with the consultant and industry representatives on ADUs and high-rise developments and a separate recommendation will be forthcoming.

DEVELOPMENT OF A PROTOTYPE MID-RISE STRUCTURE

To enable the Task Force to determine if ADUs can be provided within a mid-rise structure without causing the developer to suffer an economic loss, it was necessary to develop a prototypical mid-rise building upon which to conduct the analysis. Bolan Smart Associates and Task Force members reviewed specific features associated with mid-rise construction. It was determined that a building housing 160 dwelling units was a reasonable assumption for a multiple family development and formed the basis for the prototype. After an analysis of the dwelling unit size and bedroom mix of ADUs currently built in Fairfax County and of data collected from multiple family developers in the region, the Task Force determined that an average dwelling unit size of 987 square feet was appropriate for the prototype. Further, it was determined that the average bedroom mix in mid-rise multiple family developments is approximately 45% one bedroom units, 50% two bedroom units and 5% three bedroom units. As such, these figures were utilized in the prototype mid-rise multiple family development.

Also playing an important role in the cost analysis of a prototypical mid-rise multiple family development were such features as rental versus for-sale, structured versus surface parking and the construction materials used for the building. Regarding the rental units versus for-sale units, the analysis conducted by Bolan Smart focused on rental units, but it is believed that the cost of construction of for-sale mid-rise multiple family units would be only slightly higher, due to sometimes more luxurious amenities, features and construction materials. With the assumption that the cost differential between rental developments and for-sale developments would be financially insignificant from a cost analysis perspective, it is believed that any ADU requirements for mid-rise multiple family structures can be applied to both rental and for-sale units. If, in the event that it can be demonstrated that an increase in construction cost for the ADUs for for-sale units is the case, such expenses can be reviewed by the County Executive at the time of the establishment of the pricing for the units and adjustments made as warranted on a case-by-case basis.

Another factor which is reflected in the costs of development is the provision of structured versus surface parking. At densities of 20 to 30 units per acre and depending on the site, some of the parking spaces are likely to be provided within a parking structure. It is estimated that the cost of a structured, above-ground parking space is a minimum of \$9,500, as compared to the cost of a surface parking space of approximately \$1,500 per space. To recognize the potential of some structure parking spaces, the analysis utilized a development with 50% surface parking and 50% structured parking. It is recognized that there will be developments which may have more or less than 50% of the parking in structures, but it was concluded that a half-and-half basis is a reasonable average.

Lastly, a primary factor in the overall cost of construction of a mid-rise multiple family building is the type of building construction materials used. Typically, low-rise structures are constructed of less expensive, combustible materials, such as wood frame construction. In accordance with the Virginia Uniform Statewide Building Code, such combustible building materials are classified as Building Construction Types 3, 4, or 5. Mid-rise residential structures, however, sometimes utilize stronger construction materials to support the weight of the building height. Such non-combustible materials as steel and concrete are classified by the Virginia Uniform Statewide Building Code as Building Construction Types 1 or 2. Task Force industry representatives and Bolan Smart Associates concur that the cost of construction of Types 1 or 2 is significantly greater than the cost of construction of buildings using Types 3, 4 or 5. Therefore, the prototype mid-rise development was differentiated by whether it was constructed of combustible or non-combustible materials. Any mid-rise structure which is to be constructed of non-combustible material (Types 1 or 2) is not considered under this mid-rise category, but is included with the high-rise analysis and will remain exempt from the ADU Program unless and until such time as future changes may be made for that classification of dwelling unit.

Using all of these factors and parameters, Bolan Smart Associates formulated a prototype development cost for a mid-rise structure. The complete analysis, including the cost factors related to development costs, funding requirements and income generated by the prototype (rent), is set forth in Attachment 2 of this Staff Report.

DEVELOPMENT OF AN ADU FORMULA FOR MID-RISE STRUCTURES

In order to develop a method by which ADUs can be provided in the prototype mid-rise structure and avoid an economic loss to the developer, the Task Force considered multiple options. These options included utilization of the current ADU formula for multiple family dwelling units, development of a new ADU formula, a reduction in taxes, a cash supplement from the County at the time of occupancy, and a reduction in the term of the ADU covenants/price control.

Currently, the ADU Program requirements are applicable to any site which yields fifty or more dwelling units at a density of greater than one dwelling unit per acre and is located within an approved sewer service area. For developments comprised of single family detached or attached dwelling units, the requirement is a maximum of a 20% density bonus in exchange for up to 12.5% ADUs. For non-elevator, multiple family dwelling unit structures or elevator multiple family dwelling unit structures which are three stories or less, the requirement is a maximum of a 10% density bonus in exchange for up to 6.25% ADUs or, at the developer's option, that ratio can be increased to a 20% density bonus in exchange for up to 12.5% ADUs.

The Task Force applied the current ADU formula for low-rise multiple family structures of a 10% density bonus with 6.25% of the units as ADUs to the 160 unit multiple family prototype. Utilizing the parameters noted above and the current construction and financing costs, it was determined that such formula would result in a total loss to the developer of approximately \$600,000 for the prototype development of 176 multiple family dwelling units with 11 ADUs (160 units + 10% bonus density = 176 total units X 6.25% ADUs = 11 ADUs).

From this point, adjustment of the ratio of the percentage of bonus dwelling units to the percentage of ADUs was made until a point was reached where the economic impact on the developer was neutral. It was determined that if the ratio was changed from the current 10% density bonus to a 17% density bonus while retaining the 6.25% ADU requirement, the prototype development would not suffer an economic loss as a result of providing the ADUs. After considering the options discussed below, it was determined that this density bonus and ratio would be the most appropriate option for addressing ADUs in mid-rise multiple family structures. The 17% density bonus is within the range of density bonus allowed for other dwelling unit types (20%) and, it is believed that the resulting density would not be so significant as to greatly change the character of the development, while still achieving a reasonable percentage of ADUs in exchange for the increase in density.

The Task Force also considered a number of other options for providing ADUs in mid-rise developments. One of these included utilization of a tax abatement program, wherein taxes are not collected for the ADUs in a development. After further review by the County Attorney's Office, it was determined that a tax abatement program would require a Constitutional amendment and legislative changes at the State level. Given that a Constitutional amendment is an extremely lengthy process and the current economic climate in Virginia is less than optimal, the Task Force determined that this option could serve as a long term possibility and should be pursued, but was not an immediately viable option. Consideration was also given to the establishment of a tax rebate program, such that an incentive could be offered by the Board by appropriating monies each year to HCD's budget to reimburse a portion of the taxes being paid for developments which provide ADUs. Under this concept, the real estate tax for the ADUs would be forgiven for the period of time that the units were in the ADU Program. Upon discussion and further consideration, the Task Force concluded that this option was less desirable than the recommendation to change the ratio of bonus density to ADUs because there was uncertainty regarding the funding source and timing for the rebate.

The option of providing an up-front cash subsidy to multiple family developers providing ADUs in mid-rise buildings, in combination with a moderate density bonus, was also considered. The funds could be paid from the Housing Trust Fund or specifically allocated by the Board from the General Fund. In accordance with calculations performed by Bolan Smart Associates based on the prototype development, if a 10% density bonus were offered, the cash subsidy per ADU would be \$17,500. If 12% density bonus were offered, the cash subsidy per ADU would be \$12,300, and if 14% density bonus were offered, the cash subsidy per ADU would be \$7,200. Upon further discussion of this option, it was determined to be less desirable than the recommendation to change the ratio of bonus density to ADUs, therefore this option is not recommended for mid-rise multiple family developments.

With regard to a reduction in the term of the ADU covenants and price control period, Bolan Smart Associates also developed scenarios utilizing 10 and 15 year terms for rental price control and covenants, as opposed to the current 20-year requirement. It was determined that there was not a significant difference between the amount of density bonus which would have to be provided to offset the cost of providing ADUs given a 10-year or 15-year term of control. It was discovered that, all else being equal, a reduction in term to 15 years for rental units would result in approximately a 1% reduction in the percentage of density bonus required, and a

reduction in term to 10 years would result in approximately a 2.5% reduction in the percentage of density bonus required to make the development economically neutral. Given that the significant reduction in the term of the ADU covenants and price control period (5 or 10 years) produced a rather insignificant reduction in the amount of density bonus which would have to be afforded to make the project revenue neutral, it was decided that the reduction in the term was not a beneficial option. The Task Force determined that it was better to offer the slightly higher bonus density and maintain the ADUs in the program for the longest possible time period and concluded that the term should remain 20 years for rental units, which is consistent with the time frame for rental ADUs provided in single family detached and attached and low-rise multiple family developments. Similarly, it was concluded that the term for for-sale mid-rise multiple family ADUs should be 15 years, which is also consistent with the current provisions for for-sale ADUs in other dwelling unit types.

IMPLEMENTATION OF THE TASK FORCE RECOMMENDATION

As noted, the establishment of an ADU requirement is recommended whereby mid-rise multiple family dwelling unit structures would be afforded a 17% density bonus in exchange for 6.25% ADUs. In order to implement this recommendation, a number of changes to the Zoning Ordinance are necessary. The proposed revisions to Par. 5 of Sect. 2-802 provide for a new opt-in provision for this classification of mid-rise multiple family dwelling developments. The opt-in provision will allow a potential density bonus of up to 17% in exchange for 6.25% ADUs. The proposed change to Par. 1 of Sect. 2-803 provides that only those multiple family dwelling unit structures or housing for the elderly structures which are constructed of non-combustible materials (Type 1 or 2 of the Virginia Statewide Building Code) will continue to be exempt from the ADU requirements. With regard to housing for the elderly, staff is currently performing a comprehensive review and analysis of the Zoning Ordinance provisions and a proposed amendment to these provisions will be proposed in the forthcoming months. For now, staff is proposing that the provision of ADUs in housing for the elderly not be changed, but that ADUs continue to be provided in accordance with the existing ratio of up to a 10% density bonus in exchange for up to 6.25% ADUs or, at the developer's option, up to a 20% density bonus in exchange for up to 12.5% ADUs. This continuation of the existing provisions is also reflected in the proposed changes to Sect. 9-306 of this amendment.

Par. 2 of Sect. 2-803 is proposed to be revised to address rezoning applications approved prior to the effective date of this Zoning Ordinance amendment. As was the case when the ADU requirements were first adopted in 1990, it is proposed that rezoning applications for mid-rise multiple family dwelling units approved prior to the effective date of this Zoning Ordinance amendment would be exempt from the new ADU requirement if the rezoning contained a proffered plan that contains a lot layout, proffered or approved total maximum number of dwelling units, proffered or approved unit yield less than the maximum number of units permitted by the applicable zoning district regulations, or will provide affordable units under another federal, state or local program which are generally equivalent to the ADU requirements.

To address pending rezoning applications, staff is proposing a deferred effective date for this amendment of May 1, 2003. This will allow either time for pending rezoning applications for mid-rise multiple family dwelling developments to be acted upon by the Board of Supervisors or revisions to be made to applications to accommodate these new requirements.

The addition of a new Par. 5 is proposed for Sect. 2-803 to address pending site plans for mid-rise multiple family dwelling developments. The proposed provision will, in effect, exempt site plans for mid-rise multiple family developments filed prior to the effective date of this amendment from the new ADU requirements, provided the plan is approved within 12 months of the return of the initial submission, a building permit is issued, and the property is built while the building permit remains valid.

The changes to Sect. 2-804, Affordable Dwelling Unit Adjuster, reflect the new recommended ADU formula for the mid-rise multiple family structure, which is up to a 17% bonus in exchange for up to 6.25% ADUs. Changes are also recommended to this Section for clarity.

OTHER PROPOSED CHANGES

The Task Force is also recommending a change to Par. 2 of Sect. 2-808, which establishes limits on the issuance of building permits and Residential Use Permits (RUPs) for for-sale multiple family dwelling units, pending completion and occupancy of specified percentages of the ADUs within the development. These provisions were modified under the Zoning Ordinance amendment adopted by the Board on July 1, 2002, but the Task Force has identified an additional change since that time. Currently, the provisions allow the Zoning Administrator to issue building permits for up to 100% of the total number of units only if 90% of the units have building permits and 90% of the ADUs have been issued RUPs. For multiple family units, only one building permit is issued for an entire building and, consequently, for some projects, it would be impossible to satisfy this requirement. The Task Force proposes to delete the 90% requirement, and allow the Zoning Administrator to permit the issuance of up to 100% of the building permits and RUPs for any development when it can be demonstrated that the construction of additional market rate units is necessary in order to obtain building permits for the construction of the ADUs which are required pursuant to this Part. In such event, the development agreement and its security (bond, letter of credit, etc.) for the development would not be released until such time as all of the ADUs within the development have been issued RUPs.

SUMMARY

It is believed that the proposed changes will further enhance the ADU Program by providing opportunities to achieve ADUs in certain mid-rise multiple family dwelling unit structures. The introduction of an ADU requirement in more mid-rise multiple family dwelling unit developments will also further the County's goal of providing affordable housing opportunities and will help to better serve the intended beneficiaries and the community at large. The Task Force recommends adoption of the proposed changes to the Zoning Ordinance, as advertised, and as discussed above, with an effective date of 12:01 AM on May 1, 2003.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of November 18, 2002 and there may be other proposed amendments that may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 Amend Article 2, General Regulations, Part 8, Affordable Dwelling Unit Program, as follows:

2
3 - Amend Sect. 2-802, Applicability, by revising Par. 5 to read as follows:

4
5 5. Affordable dwelling units may be provided, at the developer's option, in ~~For any~~
6 residential development in the R-2 through R-30 and P Districts which is not required
7 to provide affordable dwelling units pursuant to the provisions of this Part, ~~at the~~
8 ~~developer's option, affordable dwelling units may be provided and the~~ Such
9 development may take advantage of ~~shall be subject to~~ the applicable zoning district
10 regulations for affordable dwelling unit developments and shall be in accordance with
11 the following:

12
13 A. For single family detached and single family attached dwelling unit
14 developments, there may be a potential density bonus of up to twenty (20)
15 percent, provided that not less than twelve and one-half (12.5) percent of the total
16 number of dwelling units shall be are provided as affordable dwelling units,
17 ~~which are~~ subject to the provisions of this Part.

18
19 B. For multiple family dwelling unit developments, structures that do not have an
20 elevator, or have an elevator and are three (3) stories or less in height, there may
21 be a potential density bonus for the development consisting of such structures of
22 up to ten (10) percent, provided that not less than six and one-quarter (6.25)
23 percent of the total number of dwelling units shall be are provided as affordable
24 dwelling units, or a potential density bonus for the development consisting of
25 such structures from greater than ten (10) percent up to twenty (20) percent,
26 provided that not less than twelve and one-half (12.5) percent of the total number
27 of dwelling units are provided as affordable dwelling units, which are ~~subject to~~
28 the provisions of this Part.

29
30 C. For multiple family dwelling unit structures that have an elevator and are four (4)
31 stories or more in height, there may be a potential density bonus for the

development consisting of such structures of up to seventeen (17) percent, provided that not less than six and one-quarter (6.25) percent of the total number of dwelling units are provided as affordable dwelling units, subject to the provisions of this Part.

Ⓒ. The affordable dwelling units shall be of the same dwelling unit type as the market rate units constructed on the site.

Ⓓ. The Affordable Dwelling Unit Advisory Board shall have no authority to modify the percentage of affordable dwelling units required under this provision, nor to allow the construction of affordable dwelling units which are of a different dwelling unit type from the market rate units on the site.

Ⓔ. Notwithstanding the above, for housing for the elderly developments, affordable dwelling units shall be provided in accordance with Par. 8A of Sect. 9-306 and shall be subject to the provisions of this Part.

- Amend Sect. 2-803, Developments Exempt From the Affordable Dwelling Unit Program, to read as follows:

Notwithstanding the provisions of Sect. 802 above, the requirements of this Part shall not apply to the following:

1. Any multiple family dwelling unit structure or housing for the elderly structure ~~with four (4) stories or more and having an elevator which is constructed of Building Construction Types 1 or 2 (non-combustible), as specified in the Virginia Uniform Statewide Building Code (VUSBC).~~
2. Special exception applications or rezoning applications or amendments thereto approved before July 31, 1990 or rezoning applications or amendments thereto approved before [effective date of this amendment] for elevator multiple family dwelling unit structures that are four (4) stories or more in height and constructed of Building Construction Types 3, 4 or 5 (combustible) as specified in the Virginia Uniform Statewide Building Code (VUSBC), which either:
 - A. Include a proffered or approved generalized, conceptual, final development plan or development plan, or special exception plat which contains a lot layout; or
 - B. Include a proffered or approved total maximum number of dwelling units or FAR; or
 - C. Include a proffered or approved unit yield per acre less than the number of units per acre otherwise permitted by the applicable zoning district regulations; or
 - D. Fully satisfy the provisions of Sect. 816 below.

3. Proffered condition amendment, development plan amendment, and special exception amendment applications filed after July 31, 1990 which deal exclusively with issues of building relocation, ingress/egress, storm water drainage, or other engineering or public facilities issues, or the preservation of historic structures, child care facilities or changes in the size of units, a reduction in the number of units, a change in dwelling unit type which proposes no increase in density over the previously approved density or which request the addition of a special exception or special permit use. In addition, notwithstanding the definition of "site or portion thereof at one location" set forth in Par. 1 of Sect. 802 above, proffered condition amendment, development plan amendment and special exception amendment applications filed after 12:01 AM March 31, 1998, which propose to add land area to a previously exempt development, provided, however, that such additional land area shall be subject to the provisions of this Part. The land area subject to the original zoning or special exception for which an amendment is sought shall remain in substantial conformance with such approved zoning or special exception.

4. Conversion to condominium of developments which were built pursuant to site plans filed or preliminary subdivision plats approved on or before July 31, 1990.

5. Site plans filed and preliminary subdivision plats approved on or before July 31, 1990; provided such site plan is approved within twenty-four (24) months of the return of the initial submission to the applicant or agent, a building permit(s) for the structure(s) shown on the approved site plan is issued in accordance with Par. 1 of Sect. 17-110 of this Ordinance and provided further that the structure(s) is in fact constructed in accordance with such building permit(s); and provided such preliminary plat is approved and a final plat is approved and recorded in accordance with the provisions of Chapter 101 of The Code, Subdivision Ordinance.

Site plans filed or preliminary subdivision plats approved on or before July 31, 1990 for developments not exempt under Paragraphs 2, 3 or 4 above may, at the owner's option, be revised or resubmitted, as the case may be, in order to comply with the requirements of this Part. Such revision or resubmission shall be processed expeditiously by the Department of Public Works and Environmental Services in accordance with the provisions of Par. 4 of Sect. 802 above.

6. Site plans for elevator multiple family dwelling unit structures that are four (4) stories or more in height and are to be constructed of Building Construction Types 3, 4 or 5 (combustible) as specified in the Virginia Uniform Statewide Building Code (VUSBC) filed on or before [effective date of this amendment], provided such site plan is approved within twelve (12) months of the return of the initial submission to the applicant or agent, the site plan remains valid, a building permit(s) for the structure(s) shown on the approved site plan is issued and provided further that the structure(s) is in fact constructed in accordance with such building permit(s).

- **Amend Sect. 2-804, Affordable Dwelling Unit Adjuster, by rearranging and revising this Section to read as follows:**

1. For rezoning and special exception applications approved after 12:01 AM March 31, 1998, or for proffered rezoning applications approved prior to 12:01 AM March 31, 1998, which specifically provide for the applicability of an amendment to this Part:

A. Which request approval of single family detached dwelling units or single family attached dwelling units, the lower and upper end of the density range set forth in the adopted comprehensive plan applicable to the application property shall be increased by twenty (20) percent for purposes of calculating the potential density which may be approved by the Board of Supervisors. ~~Compliance with the requirements of this Part~~ The provision of affordable dwellings units or, in the case of a modification approved by the ADU Advisory Board, the conveyance of land, contribution to the Fairfax County Housing Trust Fund or combination thereof, as provided for in Par. 3 of Sect. 2-815, shall satisfy the development criteria in the adopted comprehensive plan which relate to the provisions of affordable housing. For the purposes of administration of this Part, where the adopted comprehensive plan does not specify a density range in terms of dwelling units per acre, the following shall apply: density range shall be determined in accordance with Par. 8 below.

B. Which request approval of non-elevator multiple family dwelling unit structures; or elevator multiple family dwelling unit structures which are three (3) stories or less in height; or housing for the elderly structures with or without an elevator, regardless of the number of stories and constructed of Building Construction Types 3, 4 or 5 (combustible) as specified in the Virginia Uniform Statewide Building Code (VUSBC), the lower and upper end of the density range set forth in the adopted comprehensive plan applicable to the application property shall be increased by ten (10) percent for purposes of calculating the potential density which may be approved by the Board of Supervisors. However, at the applicant's option, the upper end of the density range set forth in the adopted comprehensive plan shall be increased by twenty (20) percent for purposes of calculating maximum potential density. ~~Compliance with the requirements of this Part~~ The provision of affordable dwellings units or, in the case of a modification approved by the ADU Advisory Board, the conveyance of land, contribution to the Fairfax County Housing Trust Fund or combination thereof, as provided for in Par. 3 of Sect. 2-815, shall satisfy the development criteria in the adopted comprehensive plan which relate to the provision of affordable housing. For the purposes of administration of this Part, where the adopted comprehensive plan does not specify a density range in terms of dwelling units per acre, the density range shall be determined in accordance with Par. 8 below.

- €2. Affordable dwelling units required pursuant to Par. 1 above shall be provided in accordance with the following:

(1)A. If the total number of dwelling units approved by the Board of Supervisors or as shown on the approved site plan or subdivision plat, if such total number of dwelling units is less than that which was approved by the Board of Supervisors, provides for a density which is at or below the low end of the density range

specified in the adopted comprehensive plan prior to application of the bonus density permitted for affordable dwelling developments, then no affordable dwelling units shall be required and the applicable zoning district regulations for affordable dwelling unit developments shall not apply.

- (2) B. If the total number of dwelling units approved by the Board of Supervisors or as shown on the approved site plan or subdivision plat, if such total number of dwelling units is less than that which was approved by the Board of Supervisors, provides for a density which is above the low end of the density range specified in the adopted comprehensive plan prior to application of the bonus density permitted for affordable dwelling unit developments, affordable dwelling units ~~for which the rental and/or sales price is controlled pursuant to the provisions of this Part~~ shall be provided in accordance with the following formulas:

- (a~~1~~) For ~~single family attached and single family detached dwelling unit developments for which a 20% bonus has been applied and for mixed unit developments, which may include multiple family dwelling units, for which a 20% density bonus has been applied:~~

$$\frac{\text{Approved Density minus Low End of Density Range}}{\{\text{High End of Adjusted Density Range minus Low End of Adjusted Density Range}\}} \times 12.5$$

- (b~~2~~) For multiple family dwelling unit developments for which a 10% density bonus has been applied and for the multiple family dwelling unit component of a mixed unit development for which a 10% density bonus has been applied:

$$\frac{\text{Approved Density minus Low End of Density Range}}{\{\text{High End of Adjusted Density Range minus Low End of Adjusted Density Range}\}} \times 6.25$$

Approved Density = the dwelling units per acre approved by the Board of Supervisors or as shown on the approved site plan or subdivision plat.

Low End of Density Range = the lower limit of the density range specified in the adopted comprehensive plan for the development site or as determined in accordance with ~~Paragraphs 1A(1), (2) or (3) above~~ 8 below prior to application of the permitted density increase for affordable dwelling unit developments.

High End of Adjusted Density = the upper limit of the adopted comprehensive plan density range determined after application of the permitted density increase for affordable dwelling unit developments.

Low End of Adjusted Density = the lower limit of the adopted comprehensive plan density range determined after application of the permitted density increase for affordable dwelling unit developments.

The numbers 6.25 and 12.5 in the foregoing formulas represent absolute numbers, not percentages.

In no event shall the requirement for affordable dwelling units exceed 6.25% for those developments for which a 10% increase in density has been applied to the density range specified in the adopted comprehensive plan or 12.5% for those developments for which a 20% increase in density has been applied to the density range specified in the adopted comprehensive plan.

Examples of the foregoing sliding scale affordable dwelling unit requirement and calculation of the affordable dwelling unit requirement for mixed unit developments where a 10% density increase has been applied to the multiple family component are provided at the end of this Part and should be used for illustrative purposes only.

23. For developments which were rezoned prior to July 31, 1990:

A. For single family dwelling unit developments which are not otherwise exempt under Sect. 803 above, the total maximum number of dwelling units permitted under the approved density applicable to such property, exclusive of additional units allowed pursuant to this paragraph, shall be increased by up to twenty (20) percent. Provided that a twenty (20) percent increase in density is obtained, not less than twelve and one-half (12.5) percent of the adjusted total maximum number of dwelling units shall be affordable dwelling units ~~for which the rental and/or sales price is controlled pursuant to the provisions of this Part~~. In the event a density increase of less than twenty (20) percent is the resulting maximum density increase, then the percentage of affordable dwelling units required shall be reduced to maintain a 20 to 12.5 ratio between the density increase and the affordable dwelling units. In the event that no density increase is achieved on the property, no affordable dwelling units shall be required.

B. For developments consisting of non-elevator multiple family dwelling unit structures, or elevator multiple family dwelling unit structures which are three (3) stories or less in height, or housing for the elderly structures with or without an elevator, regardless of the number of stories, which are not otherwise exempt under Sect. 803 above, the total maximum number of dwelling units permitted under the approved density applicable to such property, exclusive of additional units allowed pursuant to this paragraph, shall be increased by up to twenty (20) percent.

If a twenty (20) percent increase in density is obtained, not less than twelve and one-half (12.5) percent of the adjusted total maximum number of dwelling units shall be affordable dwelling units ~~for which the rental and/or sales price is controlled pursuant to the provisions of this Part~~. In the event a density increase of less than twenty (20) percent is the resulting maximum density increase, then the percentage of affordable dwelling units required shall be reduced to maintain a 20 to 12.5 ratio between the density increase and the affordable dwelling units. In the event that no

density increase is achieved on the property, no affordable dwelling units shall be required.

4. For rezoning applications approved after [effective date of this amendment] which request approval of elevator multiple family dwelling unit structures, that are four (4) stories or more in height and are to be constructed of Building Construction Types 3, 4 or 5 (combustible) as specified in the Virginia Uniform Statewide Building Code (VUSBC), the lower and upper end of the density range set forth in the adopted comprehensive plan applicable to the application property shall be increased by seventeen (17) percent for purposes of calculating the potential density which may be approved by the Board of Supervisors. The provision of affordable dwellings units or, in the case of a modification approved by the ADU Advisory Board, the conveyance of land, contribution to the Fairfax County Housing Trust Fund or combination thereof, as provided for in Par. 3 of Sect. 2-815, shall satisfy the development criteria in the adopted comprehensive plan which relate to the provision of affordable housing. For the purposes of administration of this Part, where the adopted comprehensive plan does not specify a density range in terms of dwelling units per acre, the density range shall be determined in accordance with Par. 8 below. Affordable dwelling units required pursuant to this paragraph shall be provided in accordance with the following:

- A. If the total number of dwelling units approved by the Board of Supervisors or as shown on the approved site plan or subdivision plat, if such total number of dwelling units is less than that which was approved by the Board of Supervisors, provides for a density which is at or below the low end of the density range specified in the adopted comprehensive plan prior to application of the bonus density permitted for affordable dwelling developments, then no affordable dwelling units shall be required and the applicable zoning district regulations for affordable dwelling unit developments shall not apply.
- B. If the total number of dwelling units approved by the Board of Supervisors or as shown on the approved site plan or subdivision plat, if such total number of dwelling units is less than that which was approved by the Board of Supervisors, provides for a density which is above the low end of the density range specified in the adopted comprehensive plan prior to application of the bonus density permitted for affordable dwelling unit developments, affordable dwelling units for which the rental and/or sales price is controlled pursuant to the provisions of this Part shall be provided in accordance with the following formula:

$$\frac{\text{Approved Density minus Low End of Density Range}}{\{\text{High End of Adjusted Density Range minus Low End of Adjusted Density Range}\}} \times 6.25$$

The terms used in this formula shall be as defined in Par. 2 above. In no event shall the requirement for affordable dwelling units exceed 6.25% for those developments in which a 17% increase in density has been applied to the density range specified in the adopted comprehensive plan.

5. For developments, which were rezoned prior to [effective date of this amendment] and are not otherwise exempt under Sect. 803 above, for elevator multiple family dwelling unit structures that are to be four (4) stories or more in height and constructed of Building Construction Types 3, 4 or 5 (combustible) as specified in the Virginia Uniform Statewide Building Code (VUSBC), other than housing for the elderly developments, the total maximum number of dwelling units permitted under the approved density applicable to such property, exclusive of additional units allowed pursuant to this paragraph, shall be increased by up to seventeen (17) percent.

If a seventeen (17) percent increase in density is obtained, not less than six and one-quarter (6.25) percent of the adjusted total maximum number of dwelling units shall be affordable dwelling units. In the event a density increase of less than seventeen (17) percent is the resulting maximum density increase, then the percentage of affordable dwelling units required shall be reduced to maintain a 17 to 6.25 ratio between the density increase and the affordable dwelling units. In the event that no density increase is achieved on the property, no affordable dwelling units shall be required.

36. For developments where affordable dwelling units are being voluntarily provided, such units shall be provided in accordance with Par. 5 of Sect. 802 above.

47. When the requirement for affordable dwelling units, as calculated in accordance with the above paragraphs 1 and 2 above, results in a fractional unit of less than 0.5, the number shall be rounded down and any fractional unit of 0.5 or greater shall be rounded up to produce an additional affordable dwelling unit

8. For the purposes of administration of this Part, where the adopted comprehensive plan does not specify a density range in terms of dwelling units per acre, the following shall apply:

A. Where the adopted comprehensive plan specifies an upper density limit in terms of dwelling units per acre, but there is no lower density limit, then the low end of the density range shall be fifty (50) percent of the upper density limit set forth in the adopted comprehensive plan.

B. Where the adopted comprehensive plan specifies a maximum number of dwelling units for an area, but no density range in terms of dwelling units per acre is specified, the density range shall be determined as follows:

(1) The upper density limit shall be equal to the maximum number of dwelling units specified in the adopted comprehensive plan divided by the land area covered by the adopted comprehensive plan recommendation, and

(2) The lower density limit shall be equal to fifty (50) percent of the upper density limit calculated above.

C. Where the adopted comprehensive plans specifies a maximum square footage for residential uses for a specific area, but no density range in terms of dwelling units per

acre, the maximum number of dwelling units shall be determined by dividing the maximum residential square footage specified in the adopted comprehensive plan by an average dwelling unit size for the proposed dwelling unit type within the development. The density range shall be determined as follows:

(1) The upper density limit shall be equal to the maximum number of dwelling units calculated above divided by the land area covered by the adopted comprehensive plan recommendation, and

(2) The lower density limit shall be equal to fifty (50) percent of the upper density limit calculated above.

- Amend Sect. 2-808, Limitations on Building Permits and Residential Use Permits, by revising Par. 2 to read as follows:

2. In a development which is comprised solely of for sale multiple family units, Residential Use Permits (RUPs) shall not be issued which would permit occupancy of more than seventy-five (75) percent of the total number of approved units until such time as RUPs have been issued for all affordable dwelling units required pursuant to the provisions of this Part; except that the Zoning Administrator may allow an increase in the number of RUPs issued from seventy-five (75) percent up to ninety (90) percent of the total number of approved units when the affordable dwelling units are distributed throughout the development and, at the time of request for such increase, seventy-five (75) percent of the affordable dwelling units have been issued RUPs. In all instances, building permits shall not be issued for more than ninety (90) percent of the total number of dwelling units approved until such time as ninety (90) percent of the affordable dwelling units have been issued RUPs. However, the Zoning Administrator may allow the issuance of building permits for up to one hundred (100) percent of the total number of approved units in the development if it can be demonstrated that the construction of additional market rate units ~~over the ninety (90) percent~~ is necessary in order to obtain building permits for the construction of the affordable dwelling units which are required pursuant to this Part. In such event, the development agreement and its security (bond, letter of credit, etc.) for the development shall not be released until such time as all of the affordable dwelling units within the development have been issued RUPs.

- Amend Sect. 2-811, Administration of Rental Affordable Dwelling Units, by revising Par. 6 to read as follows:

6. For multiple family dwelling units, County-wide rental prices shall be established by the County Executive in accordance with the following:
 - A. Two-thirds (2/3) of the affordable units in ~~non-elevator multiple family dwelling unit structure developments, or elevator multiple family dwelling unit structures which are three (3) stories or less, which are not otherwise exempt under Sect. 803 above,~~ shall be established according to the following formula which shall be based on

sixty-five (65) percent of the median income for the Washington Standard Metropolitan Statistical Area. This base figure shall be adjusted by the following factors for different multiple family dwelling unit sizes based on the number of bedrooms in the dwelling unit:

Number of Bedrooms	Adjustment Factor
Efficiency (0 bedroom)	70%
1 Bedroom	80%
2 Bedroom	90%
3 Bedroom	100%

The result of this calculation for each size multiple family dwelling unit shall then be divided by twelve (12), then multiplied by twenty-five (25) percent and rounded to the nearest whole number to establish the rent for the unit, excluding utilities.

- B. One-third (1/3) of the affordable units in ~~non-elevator multiple family dwelling unit structure developments, or elevator multiple family dwelling unit structures which are three (3) stories or less, which are not otherwise exempt under Sect. 803 above,~~ shall be established according to the following formula which shall be based on fifty (50) percent of the median income for the Washington Standard Metropolitan Statistical Area. This base figure shall be adjusted by the same factors set forth in Par. A above and the results of this calculation for each size dwelling unit shall then be divided by twelve (12), then multiplied by twenty-five (25) percent and rounded to the nearest whole number to establish the rent for the unit, excluding utilities.
- C. Rental prices for affordable dwelling units in housing for the elderly projects which have a monthly charge which combines rent with a service package shall be established on a case by case basis after consideration of written comments from the public, the Fairfax County Redevelopment and Housing Authority and the Affordable Dwelling Unit Advisory Board.

Amend Article 9, Special Exceptions, Part 3, Category 3 Quasi-Public Uses, Sect. 9-306, Additional Standards for Housing for the Elderly, by revising Par. 8 to read as follows:

8. The intensity and development of such use shall be in accordance with the following paragraphs and as further modified by the corresponding multiplier and open space requirements set forth in the following schedule:
- A. When the provisions of Part 8 of Article 2 are not applicable, the low end of the residential density range adopted in the comprehensive plan shall govern. However, when an applicant opts to participate in the Affordable Dwelling Unit Program, as set forth in Part 8 of Article 2, the residential density range adopted in the comprehensive plan shall be increased by ten (10) percent when calculating the maximum potential

density which may be approved by the Board of Supervisors, however, at the applicant's option, the residential density range shall be increased by twenty (20) percent when calculating the maximum potential density. The calculation of the required number of affordable dwelling units shall be in accordance with ~~the provisions Paragraphs 1 and 2~~ of Sect. 2-804. Where the adopted comprehensive plan does not specify a density range in terms of dwelling units per acre, the density range shall be determined and the calculation of the required number of affordable dwelling units based upon the density increase provided for herein shall be in accordance with ~~Paragraphs 1 and 3~~ 8 of Sect. 2-804.

- B. When the provisions of Part 8 of Article 2 are applicable, the residential density range adopted in the comprehensive plan shall be increased by ten (10) percent when calculating the maximum potential density which may be approved by the Board of Supervisors, however, at the applicant's option, the residential density range shall be increased by twenty (20) percent when calculating the maximum potential density. The calculation of the required number of affordable dwelling units shall be in accordance with ~~the provisions Paragraphs 1 and 2~~ of Sect. 2-804. Where the adopted comprehensive plan does not specify a density range in terms of dwelling units per acre, the density range shall be determined and the calculation of the required number of affordable dwelling units based upon the density increase provided for herein shall be in accordance with ~~Paragraphs 1 and 3~~ 8 of Sect. 2-804.

Comprehensive Plan Residential Density *	Maximum Number of Units Per Acre**		Required Open Space
0.2 unit per acre	not to exceed	5 times unit per acre	75%
0.5 unit per acre	"	4 times unit(s) per acre	70%
1 unit per acre	"	"	65%
2 units per acre	"	"	60%
3 units per acre	"	"	55%
4 units per acre	"	"	50%
5 units per acre	"	"	35%
8 units per acre	"	"	25%
12 units per acre or more	"	"	35%
PRC District	In accordance with an approved Development Plan		

*When applicable, the unit per acre residential density may be increased by 10% or 20% for provision of affordable units

**Excluding nursing facilities

To review the attachments for this amendment, please call 703-324-1314 or visit the Ordinance Administration Branch of the Zoning Administration Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 807, Fairfax, Virginia 22035-5505.